

ORIGINAL OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG



ARIZONA CORPORATION COMMISSION

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DATE: August 25, 2006
DOCKET NO.: T-20381A-05-0493

AZ CORP COMMISSION
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TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Order on:

800 RESPONSE INFORMATION SERVICES LLC

(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 5, 2006

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

SEPTEMBER 19 AND 20, 2006

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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Arizona Corporation Commission
DOCKETED

AUG 25 2006

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DOCKETED BY

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1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 **COMMISSIONERS**

4 JEFF HATCH-MILLER, Chairman
5 WILLIAM A. MUNDELL
6 MIKE GLEASON
7 KRISTIN K. MAYES
8 BARRY WONG

9 IN THE MATTER OF THE APPLICATION OF 800
10 RESPONSE INFORMATION SERVICES LLC FOR
11 A CERTIFICATE OF CONVENIENCE AND
12 NECESSITY TO PROVIDE COMPETITIVE
13 RESOLD INTEREXCHANGE
14 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-20381A-05-0493

DECISION NO. _____

15 **ORDER**

16 Open Meeting
17 September 19 and 20, 2006
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

20 Having considered the entire record herein and being fully advised in the premises, the
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 **FINDINGS OF FACT**

23 1. On July 12, 2005, 800 Response Information Services, LLC ("Applicant") filed with
24 the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
25 provide competitive resold interexchange telecommunications services within the State of Arizona.

26 2. Applicant is a switchless reseller that purchases telecommunications services from a
27 variety of carriers for resale to its customers.

28 3. In Decision No. 58926 (December 22, 1994), the Commission found that resold
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
of the Commission.

4. Applicant has authority to transact business in the State of Arizona.

5. On August 29, 2005, Applicant filed an Affidavit of Publication indicating compliance
with the Commission's notice requirements.

1 6. On August 4, 2006, the Commission's Utilities Division Staff ("Staff") filed a Staff
2 Report which includes Staff's fair value rate base determination in this matter and recommends
3 approval of the application subject to certain conditions. The Staff Report addressed the overall
4 fitness of Applicant to receive a Certificate and also addressed whether its services should be
5 classified as competitive and whether its initial rates are just and reasonable.

6 7. In its Staff Report, Staff stated that Applicant provided unaudited financial statements
7 for the three months ending December 31, 2005, which list assets of \$295,671, equity of \$65,661 and
8 net income of \$16,885.

9 8. Applicant's tariff indicates that it does not require deposits from its customers for
10 services, and does not indicate that Applicant collects advances and/or prepayments from its resold
11 interexchange customers. If at some future date, Applicant wants to collect advances, deposits and/or
12 prepayments from its resold interexchange customers, Staff recommended that the Applicant be
13 required to file an application with the Commission for approval. The application must reference the
14 decision in this docket and explain the Applicant's plans for procuring a performance bond.

15 9. In the event that the Applicant experiences financial difficulties, there will be minimal
16 impact to its customers because there are many companies that provide resold interexchange
17 telecommunications service or the customers may choose a facilities-based provider. The Applicant
18 proposes only to provide "800" toll free telecommunications services. The caller making the "800"
19 toll free call does not need the ability to dial a 1+ or 101XXXX (dial around) access code. The
20 Applicant's customer pays for the call made and received by the customer via the toll-free number
21 assigned to the customer instead of the caller paying for the call. If the Applicant desires to provide
22 other telecommunications services than "800" toll free service, Staff recommended that the Applicant
23 file an application with the Commission and affirm that the Applicant's customers will be able to
24 access alternative toll service providers to resellers via 101XXXX access code. In the longer term,
25 the customer may desire to permanently switch to another provider.

26 10. Staff stated that based on information obtained from the Applicant, it has determined
27 that Applicant's fair value rate base ("FVRB") is zero and Applicant's FVRB is too small to be useful
28 in a fair value analysis, and is not useful in setting rates. Staff further stated that in general, rates for

1 competitive services are not set according to rate of return regulation, but are heavily influenced by
2 the market. Staff recommended that the Commission not set rates for Applicant based on the fair
3 value of its rate base.

4 11. Staff believes that Applicant has no market power and that the reasonableness of its
5 rates will be evaluated in a market with numerous competitors. In light of the competitive market in
6 which the Applicant will be providing its services, Staff believes that the rates in Applicant's
7 proposed tariffs for its competitive services will be just and reasonable, and recommends that the
8 Commission approve them.

9 12. Commission rules provide pricing flexibility by allowing competitive
10 telecommunication service companies to price their services at or below the maximum rates
11 contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109.
12 This requires the Applicant to file a tariff for each competitive service that states the maximum rate
13 as well as the effective (actual) price that will be charged for the service. Any changes to the
14 Applicant's effective (actual) price for a service must comply with A.A.C. R14-2-1109, which
15 provides that the minimum rates for the applicant's competitive services must not be below the
16 Applicant's total service long run incremental costs of providing the services. The Applicant's
17 maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on
18 file with the Commission. Future changes to the maximum rates must comply with A.A.C. R14-2-
19 1110.

20 13. Staff recommended approval of Applicant's application subject to the following:

21 (a) The Applicant should be ordered to comply with all Commission rules, orders,
22 and other requirements relevant to the provision of intrastate telecommunications
23 service;

24 (b) The Applicant should be ordered to maintain its accounts and records as
25 required by the Commission;

26 (c) The Applicant should be ordered to file with the Commission all financial and
27 other reports that the Commission may require, and in a form and at such times as the
28 Commission may designate;

(d) The Applicant should be ordered to maintain on file with the Commission all

current tariffs and rates, and any service standards that the Commission may require;

(e) The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;

(f) The Applicant should be ordered to cooperate with Commission investigations including, but not limited to, customer complaints;

(g) The Applicant should be ordered to participate in and contribute to the Arizona Universal Service Fund, as required by the Commission;

(h) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's name, address or telephone number;

(i) If at some future date, the Applicant wants to collect from its customers an advance, deposit, and/or prepayment, Staff recommends that the Applicant be required to file such information with the Commission for Commission approval. Such application must reference the Decision Number in this docket and must explain the Applicant's plans for procuring a performance bond;

(j) The Applicant's interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(k) The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;

(l) In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective price to be charged for the service as well as the service's maximum rate

(m) If the Applicant desires to provide other telecommunications services other than "800" toll free service call, Staff recommends that the Applicant file an application with the Commission and affirm that the Applicant's customers will be able to access alternative toll service providers to resellers via 101XXXX; and

(n) In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers in accordance with A.A.C. R14-2-1107.

14. Staff further recommended that Applicant's Certificate should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first.

15. Staff recommended that if the Applicant fails to meet the timeframes outlined in

1 Finding of Fact No. 14, that Applicant's Certificate should become null and void after due process.

2 16. Applicant will not collect advances, prepayments or deposits from customers.

3 17. The rates proposed by this filing are for competitive services.

4 18. Staff's recommendations as set forth herein are reasonable.

5 19. Applicant's fair value rate base is zero.

6 **CONCLUSIONS OF LAW**

7 1. Applicant is a public service corporation within the meaning of Article XV of the
8 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

9 2. The Commission has jurisdiction over Applicant and the subject matter of the
10 application.

11 3. Notice of the application was given in accordance with the law.

12 4. Applicant's provision of resold interexchange telecommunications services is in the
13 public interest.

14 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for
15 providing competitive resold interexchange telecommunications services in Arizona.

16 6. Staff's recommendations are reasonable and should be adopted.

17 7. Applicant's fair value rate base is not useful in determining just and reasonable rates
18 for the competitive services it proposes to provide to Arizona customers.

19 8. Applicant's rates, as they appear in its proposed tariffs, are just and reasonable and
20 should be approved.

21 **ORDER**

22 IT IS THEREFORE ORDERED that the application of 800 Response Information Services,
23 L.L.C. for a Certificate of Convenience and Necessity for authority to provide competitive resold
24 interexchange telecommunications services, shall be, and hereby is, granted, conditioned upon its
25 compliance with the requirements as set forth in Findings of Fact Nos. 13 and 14, above.

26 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
27 13 and 14 above are hereby adopted.

28 IT IS FURTHER ORDERED that 800 Response Information Services, L.L.C. shall comply

with the adopted Staff recommendations as set forth in Findings of Fact Nos. 13 and 14 above.

IT IS FURTHER ORDERED that if 800 Response Information Services, L.L.C. fails to meet the timeframes outlined in Finding of Fact. No. 14 above that the Certificate conditionally granted herein shall become null and void after due process.

IT IS FURTHER ORDERED that 800 Response Information Services, L.L.C. shall not require its Arizona customers to pay advances, prepayments or deposits for any of its products or services.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2006.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

AB:mj

1 SERVICE LIST FOR: 800 RESPONSE INFORMATION SERVICES, L.L.C.

2 DOCKET NO.: T-20381A-05-0493

3 Robert Cleary
4 800 Response Information Services, L.L.C.
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